

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 11 is objected to because of the following informalities: the term "an hair styling" should be changed to - -a hair styling- -. Appropriate correction is required.

### ***Specification***

2. The disclosure is objected to because of the following informalities: The first paragraph of the specification should contain the containing data (i.e. provisional application number 60/539,785).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 7 contains the trademark/trade name Velcro. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of

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goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name.

6. Claim 7, line 1, "the connector" lacks a prior antecedent.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drake et al. (US 5,577,607) in view of Abura et al. (US 4,641,010).

Regarding claim 1, Drake et al. discloses a flexible body (10) comprising a flat flexible sheet of fabric which can be wrapped and unwrapped about rigid members of a hair styler (42) to hold the rigid members in a selected compact storage and handle operative positions (see Figure 6). Drake et al. does not disclose the hair styler being a cordless hair styler. Abura et al. teaches a cordless hair styler (see Figure 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the hair styler of Drake et al. with a cordless hair styler of Abura et al. since simple substitution of one known element (i.e. hair styler) for another would be obvious to obtain the predictable results of a hair styler.

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Regarding claim 2, the combination of Drake et al. and Abura et al. disclose an attachment (51), an elongate member on which the attachment is pivotally supported (13), and an elongate battery pack (3) (see Figure 3 of Abura et al.).

***Allowable Subject Matter***

9. Claims 3-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL R. STEITZ whose telephone number is (571)272-1917. The examiner can normally be reached on Monday-Friday 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Rachel Running Steitz/  
Examiner  
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